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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,668	08/19/2003	Brent K. McCurdy	3014.05	3511

7590 11/01/2005

Stephen R. Greiner, Esquire
GREINER LAW OFFICES, P.C
Suite 110
6701 Democracy Blvd
Bethesda, MD 20817

EXAMINER

DRODGE, JOSEPH W

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,668

Applicant(s)

MCCURDY, BRENT K.

Examiner

Joseph W. Drodge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0803</u> . | 6) <input type="checkbox"/> Other: ____. |

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Claims 3 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are indefinite since the trademark is not accompanied by the generic name of the product or composition components.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lockhart patent 5,678,593 in view of Zeiher et al patent 6,821,428, Lancz patent 3,816,351, and Hoots et al patent 6,315,909.

Lockhart discloses dissolving of a liquid detergent for use in car-washing industries comprising mixing and dissolving of the solute of the detergent in tank 18 with stirrer 162 so that it dissolves into the solvent or water from a water source [as in instant claim 5], and controlling the concentration of solute by continuing to add solute and stir

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until the level of solute has reached a predetermined level by monitoring with a tank/container level sensor and with a timer (Abstract, and especially column 6, line 65-column 7, line 7 and column 8, line 55-column 9, line 4.

For independent claim 10, the solute of Lockhart comprises an alkaline builder (column 2, lines 32-35).

The claims all differ in requiring that the stirring and concentration level of solute be controlled by way of combining a tracer in known proportion to the detergent solute and monitoring the contents of the container by a turbidimeter.

Lockhart suggests adding additional trace solutes including surfactants and dyes (enabling visible tracing) at column 9, lines 59-62, while Lancz teaches adding dyes and "inert fillers" such as sodium sulfate [as in instant claims 3 and 12] to the car wash detergent solution, such inert fillers inherently raising the turbidity of the solution as it constitutes a powdery particles in suspension.

Zeihner et al teach to monitor concentrations of cleaning chemicals in industrial processes, such as cooling tower recirculation systems as well as car wash processes (column 23, lines 36-43 and column 24, lines 1-17) and monitoring and controlling concentrations of such cleaning chemicals by adding a tracer to the formulation (column 9, lines 63-column 10, line 7) and monitoring tracer concentrations (column 3, lines 10-27, etc.). Hoots et al combines tracer monitoring with monitoring of turbidity levels in column 5, lines 1-37. It would have been obvious to one of ordinary skill in the art to have modified the method of Lockhart by combining a tracer compound with the detergent solute and monitoring concentration of detergent by combination of

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monitoring tracer concentration and turbidity levels, as taught by combined teachings of Lancz, Hoots et al and Zeiher et al, to ensure an appropriate level of cleaning solute detergent to effectively wash the vehicles, without wasting excess cleaning chemical solute.

Motivation to control concentrations of solute are expressed in the primary Lockhart disclosure at column 4, lines 61-68 and column 9, lines 62-67.

For claims 7,9 and 11, light transmission and detection are suggested in Hoots et al at column 8, line 15 and 37 and column 22, lines 29-33 of Zeiher et al.

For claim 2, Lockhart discloses finely divided solids at column 3, lines 45-46.

For claims 4 and 13, Lockhart and Lancz do not limit the type of alkaline builder.

For claim 6, the concentration of solute in solution is saturated in the Lockhart process, since excess solute remains as a layer at the bottom of the mixing container.

For claim 5, Lockart discloses plural solvents as well as water (column 9, lines 59-62).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

October 30, 2005


JOSEPH DRODGE
PRIMARY EXAMINER